

## Message Text

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PAGE 01 KINGST 02783 311916Z

ACTION ARA-10

INFO OCT-01 ISO-00 EB-07 COME-00 L-03 XMB-02 OPIC-03

OES-07 INT-05 CIAE-00 INR-07 NSAE-00 ARAE-00

AID-05 TRSE-00 /050 W

-----311918Z 009531 /50

P 311835Z MAY 77

FM AMEMBASSY KINGSTON

TO SECSTATE WASHDC PRIORITY 5560

LIMITED OFFICIAL USE KINGSTON 2783

E.O. 11652: N/A

TAGS: EGEN, EAID, EINV, JM, US, OPIC

SUBJECT: SUPREME COURT RULES BAUXITE LEVY CONSTITUTIONAL

1. THE JAMAICAN SUPREME COURT YESTERDAY (MAY 30) RULED THAT THE BAUXITE LEVY IS CONSTITUTIONAL. THE RULING CAME IN THE ACTION BROUGHT AGAINST THE GOVERNMENT OF JAMAICA BY REVERE JAMAICA ALUMINA LIMITED. REVERE REPORTEDLY ARGUED THAT THE BAUXITE LEVY IS NOT A TAX SINCE THE PURPOSES TO WHICH THE PROCEEDS CAN BE PUT WERE NOT SPECIFIED. THE COURT REJECTED THIS, SAYING SIMPLY THAT THE LEVY FULFILLED THE REQUIREMENTS OF A TAX.

2. REVERE ALSO CONTENDED THAT THE GOJ HAD IMPROPERLY WITHHELD PERMISSION FOR REVERE TO CEASE OPERATIONS AND HAD IMPROPERLY CANCELLED REVERE'S MINING LEASE. THE SUPREME COURT HELD THAT THE PERMISSION TO CEASE PRODUCTION HAD NOT BEEN WRONGFULLY WITHHELD BUT ADDED THAT UNTIL PERMISSION TO CEASE OPERATIONS HAD BEEN GRANTED, THE MINING LEASE COULD NOT BE ANCELLED.

3. REVERE HAD ALSO SOUGHT A REFUND OF THE BAUXITE LEVY PAID AFTER PRODUCTION HAD CEASED. THE SUPREME COURT RULED THAT ALTHOUGH REVERE WAS LIABLE FOR THE LEVY IN LIMITED OFFICIAL USE

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PAGE 02 KINGST 02783 311916Z

1975 SINCE PRODUCTION WAS HALTED IN THAT YEAR, IT WAS NOT LIABLE TO PAY THE LEVY IN 1976. IT ORDERED THAT ANY SUMS PAID ON 1976 ACCOUNT BE REFUNDED TO REVERE.

4. COMMENT: REVERE CAN NOW APPEAL THE CONSTITUTIONAL ISSUE TO THE PRIVY COUNCIL. IT IS PROBABLY REQUIRED TO DO SO IF IT INTENDS TO PRESERVE ALL OF ITS CLAIM AGAINST OPIC

UNDER THE INVESTMENT GUARANTEE WHICH GOES TO ARBITRATION  
IN THE VERY NEAR FUTURE.  
DORRANCE

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NNN

## Message Attributes

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**Channel Indicators:** n/a  
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**Subject:** SUPREME COURT RULES BAUXITE LEVY CONSTITUTIONAL  
**TAGS:** EGEN, EAID, EINV, JM, US, OPIC, JAMAICA ALUMINA LIMITED  
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**Review Markings:**  
Margaret P. Grafeld  
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